IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Dr.Smt.Usha Singh v. State of Raj. & Ors.

S.B.CIVILWRIT PETITION No.631/2003
under Article 226 of the Constitution of India.

Date of Order : 1st April, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Kamal Dave, for the petitioner.
Mr. L.R.Upadhyay, Dy.Govt.Advocate.

BY THE COURT :

Admit.

With the consent of the parties the writ petition is heard today itself.

The petitioner is working as Lecturer in the subject of Sociology under the Directorate of College Education, Government of Rajasthan.

The grievance of the petitioner is that no increment is allowed by the respondents to her since August, 2001, Without any just and valid reason. It is stated by counsel for the petitioner

that stoppage of increment is a punishment provided under Rule 14 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (hereinafter referred to as “the Rules of 1958”) and no such punishment can be imposed without adhering procedure prescribed to do so under the said Rules.

In reply to the writ petition it is stated on behalf of the respondents that the petitioner's leave case for a period of three days, those are 13.1.2001, 16.1.2001 and 30.1.2001, is pending consideration in Directorate and in view of the same increments of the petitioner were withheld. It is also stated that the petitioner did not submit any application in prescribed proforma to avail leave for the aforesaid days, as such neither the leave could be sanctioned nor the increments could be allowed to her.

Heard counsel for the parties.

Under Rule 29 of the Rajasthan Service Rules, 1951 increments to a Government Servant are required to be given unless withheld by the authority empowered to do so in accordance with relevant provisions of the Rules of 1958. The increments cannot be stopped on the count that leave availed by the Government Servant could not be adjusted due to non submission of application in prescribed proforma.

In the present case there is no just and valid reason to deny increments to the petitioner since August, 2001. The approach of the respondents is not only in contravention of Rajasthan Service Rules but is also arbitrary and unjust. The reason given by the respondents for not giving increments to the petitioner is not at all sustainable in eye of law.

In view of it, the writ petition is allowed. The respondents are directed to release all annual increments for which the petitioner is entitled since August, 2001. Fixation of the petitioner's pay be made accordingly within a period of two months from today. The respondents shall pay the arrears accruing to the petitioner as a consequence of fixation of pay by giving increments, with interest @ 8% per annum. The cost of the petition is awarded in favour of the petitioner which is quantified as Rs.5,000/-.

(GOVIND MATHUR),J.

kkm/ps.